730 ILCS 5/5-5-6

5/5-5-6. Restitution

§ 5-5-6. In all conviction for offenses in violation of the Criminal Code of 1961 committed against any person 65 years of age or older in which the person received any injury to their person or damage to their real or personal property as a result of the criminal act of the defendant, and in cases where the defendant is convicted of looting under Section 42-1 of the criminal Code of 1961, the court shall order restitution as provided in this Section. In all other cases the court shall at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate the offender may be sentenced to make restitution which shall be determined by the Court as hereinafter set forth:

(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article V of the Criminal Code of 1961.

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall

assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant.

(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.

(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.

(m) A restitution order under this Section is a judgment lien in favor of the victim that:

(1) Attaches to the property of the person subject to the order;

(2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code;

(3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) Expires in the same manner as a judgment lien created in a civil proceeding.

When a restitution order is issued under this Section, the issuing court shall send a certified copy of the Order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

(n) An order of restitution under this Section does not bar a civil action for:

(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and

(2) Other damages suffered by the victim.

Regardless of whether restitution is required under this Section as a condition of a sentence, the restitution order is not discharged by the completion of the sentence imposed for the offense.

A restitution order under this Section is not discharged by the liquidation of a person's estate by a receiver. A restitution order under the Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure.

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED CHAPTER 735. CIVIL PROCEDURE ACT 5. CODE OF CIVIL PROCEDURE ARTICLE VIII. EVIDENCE PART 10. JUDICIAL NOTICE

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Current through P.A. 89-456, approved 5/21/96

5/8-1003. Common law and statutes

s8-1003. Common law and statutes. Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

725 ILCS 5/111-3

5/111-3. Form of charge

§ 111-3. Form of charge. (a) A charge shall be in writing and allege the commission of an offense by:

(1) Stating the name of the offense;

(2) Citing the statutory provision alleged to have been violated;

(3) Setting forth the nature and elements of the offense charged;

(4) Stating the date and county of the offense as definitely as can be done; and

(5) Stating the name of the accused, if know, and if not known, designate the accused by any name or description by which he can be identified with reasonable certainty.

STATE FARM INSURANCE COMPANIES (LOGO)

September 3, 1993

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Claim Office
1251 N. Plum Grove Road
Suite 150
Schaumburg, IL 60173
Writer's Direct Line:
(708) 490-3440

Marshall C. & Carol Spiegel
5701 N. Sheridan Road, Ste. J7
Chicago, IL 60660-4702

RE: Our Claim Number: 13-F146-999 & 13-F147-425
Policy Number: 13-72-2210-8-PLUP &
13-72-2211-0-Tenants Policy

Dear Mr. and Mrs. Spiegel:

We are writing to you in reference to the matter you tendered to us for consideration under your Personal Liability Umbrella Policy and your Tenants Policy. It is our understanding that you were looking for coverage under your policies for criminal allegations as a result of neighbor dispute in the building in which you reside.

Our review of the facts as related to us by yourself and your policy indicates we are unable to provide coverage to you for this incident. Please now refer to the two policies issued to you.

Please refer to the Personal Liability Umbrella Policy:

COVERAGES

Coverage L - Personal Liability. If you are legally obligated to pay damages for a loss, we will pay your net loss minus the retained limit. Our payment will not exceed the amount shown on the Declarations as Policy Limits - Coverage L - Personal Liability.

DEFINITIONS

The following definitions are important.

6. "loss:" means an accident that results in personal injury or property damage during the policy period. This includes injurious exposure to conditions.

8. "net loss" means:

   a. the amount you are legally obligated to pay as damages for personal injury or property damages; and

   b. All reasonable expenses you incur in the investigation, settlement and defense of a claim or suit at our request. This does not include expenses covered by another policy, expenses we cover under the Defense and Settlement section of this policy, and salaries of your employees.

9. "personal injury" means:

   a. bodily harm, sickness, disease, shock, mental anguish or mental injury. This includes required care, loss of services and death resulting therefrom. Personal injury does not include any of the following which are communi-

cable; disease, bacteria, parasite, virus, or other organism, any of which are transmitted by any insured to any other person. It also does not include the exposure to any such disease, bacteria, parasite, virus, or other organism by any insured to any other person.

b. false arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution or humiliation;

c. Libel, slander, defamation of character or invasion of rights or privacy; and

d. assault and battery.

11. "property damage: means physical injury to or destruction of tangible property. This includes the loss of use caused by the injury or destruction.

EXCLUSIONS

We will not provide insurance:

2. for personal injury or property damage:

   a. which is either expected or intended by you; or

   b. to any person or property which is the result of your willful and malicious act, no matter at whom the act was directed.

The nature of this incident is criminal. It is our decision that the facts of this incident do not meet the definition of a loss as quoted above. Therefore, we see there would be no coverage under the insuring agreement under the Umbrella Policy. Furthermore, the allegations against you would be excluded per Exclusion 2.a. above.

Please now refer to your Tenants Policy:

SECTION II - LIABILITY COVERAGE

COVERAGE L - PERSONAL LIABILITY

If a claim is made or a suit is brought against an insured for damages because of bodily injury or property damage to which this coverage applies, caused by an occurrence, we will:

1. pay up to our limit of liability for the damages for which the insured is legally liable; and
2. provide a defense at our expense by counsel of our choice. WE may make any investigation and settle any claim or suit that we decide is appropriate. Our obligation to defend any claim or suit ends when the amount we pay for damages, to effect settlement or satisfy a judgment resulting from the occurrence, quals our limit of liability.

DEFINITIONS

Certain words and phrases are defined as follows:

1. "bodily injury" means physical injury, including any resulting sickness or disease to a person. This includes required care, loss of services and death resulting therefrom.

   Bodily injury does not include:

   a. any of the following which are communicable: disease, bacteria, parasite, virus, or other organism, any of which are transmitted by any insured to any other person.

   b. the exposure to any such communicable disease, bacteria, parasite, virus, or other organism; or

c. emotional distress, mental anguish, humiliation, mental distress, mental injury, or any similar injury unless it arises out of actual physical injury to some person.

8. "occurrence", when used in Section II of this policy, means an accident, including exposure to conditions, which result in:

   a. bodily injury; or

   b. property damage

   during the policy period. Repeated or continuous exposure to the same general conditions is considered to be one occurrence.

9. "property damage" means physical damage to or destruction of tangible property, including loss of use of this property. Theft or conversion of property by an insured is not property damage.

SECTION II - EXCLUSIONS

1. Coverage L and Coverage M do not apply to:

   a. bodily injury or property damage

      (1) which is either expected or intended by an insured; or

      (2) to any person or property which is the result of willful and malicious acts of an insured;

Once again, with reference to this criminal charge brought against you, it would fall within the definition of occurrence of your Tenants Policy and would be excluded per Exclusion 1.a. above.

For these reasons and for any other reasons which may exist or later develop, we are unable to extend any protection to you and are notifying you we are expressly disclaiming any and all protection under policy numbers 13-72-2210-8 and 13-72-2210-0 for this criminal matter and for all other matters arising therefrom. Any legal action or conviction arising out of this will be your personal responsibility.

Should a civil suit be filed in this matter and you wish for us to review the allegations of any civil lawsuit, please forward it to us for consideration immediately.

Sincerely,

Mary P. Carroll, CPCU
Claim Superintendent
State Farm Fire & Casualty Ins. Co.

MPC/km/02/0903001

CC: Michael Braun
33 N. Dearborn Street, Ste. 500
Chicago, IL 60602

Agent Marsden